

judge's report.

A review of the record indicates that the magistrate judge's report accurately summarizes this case and the applicable law. Finding no error in the report, this court adopts the report and recommendation and incorporates it into this order.

For the reasons articulated by the magistrate judge, it is hereby **ordered** that defendants' motion to dismiss is **granted**, and the within action is hereby **dismissed** without prejudice.

AND IT IS SO ORDERED.

S/Patrick Michael Duffy

Patrick Michael Duffy

U.S. District Judge

Charleston, South Carolina
May 16, 2005

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this Order within **thirty (30) days** from the date hereof pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.